

March 7, 2003

All Interested Bidders:

RE: Invitation for Bid (IFB) #9294, Scratchers® Inventory Services

The California Lottery (Lottery) is issuing the attached IFB to invite responses from qualified bidders to conduct inventory services of Lottery Scratchers® tickets in Sacramento and Rancho Cucamonga, California. Please review all information carefully and adhere to the timetable set forth in Section I, E. Projected Timetable when submitting your proposals.

Please read all instructions and forms thoroughly to ensure your proposal is in compliance with all requirements. Return all documents as specified in Section II, B. Proposal Packaging and Delivery no later than **3:00 p.m. on April 18, 2003**. Late proposals will not be accepted.

Any questions regarding this IFB, other than the Disabled Veteran Business Enterprise and Small Business participation, should be directed to me at (916) 327-7816 or fax (916) 327-1345 or e-mail: *msunahara@calottery.com*.

We look forward to receiving your proposals.

Sincerely,

Margie Sunahara
Contract Administrator
Contract Services Section

Attachment

Final

**Invitation for Bid
#9294**

Scratchers® Inventory Services

March 7, 2003

**California Lottery
600 North 10th Street
Sacramento, CA 95814-0393**

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I. GENERAL INFORMATION

A. Purpose

The California Lottery (Lottery) is inviting proposals from all qualified Bidders to conduct inventory services of Lottery Scratchers® tickets in Sacramento and Rancho Cucamonga, California as specified in the Scope of Services, Exhibit A. The Contract will be for a period of two (2) years with the option to extend up to one (1) year under the same terms and conditions, at the same price, and at the sole discretion of the Lottery. By submitting a proposal, Bidders certify they meet all minimum qualifications and requirements specified herein and agree to comply with all Terms and Conditions in Exhibit B.

B. Bidder Qualifications

This IFB is open to all Bidders who, at the time of proposal submission, meet the following minimum requirements:

1. Have a minimum of five (5) years of product inventory experience using data entry and bar code technology;
2. Have an office in California; and
3. Meet the requirements as set forth in Section II, A. Mandatory Submittals.

C. Issuing Office and Bidder-Initiated Contact

This IFB is issued by the State of California, California Lottery Commission. The Lottery is the sole point of contact regarding all procurement and contractual matters relating to the goods and services described herein. Except as may be otherwise specifically set forth herein, the Director of the Lottery is the only individual authorized to clarify, modify, amend, alter or withdraw the specifications, terms, and conditions of this IFB. All notices or inquiries pertaining to this IFB shall be in writing or by e-mail directed to:

California Lottery
Contract Services Section
Attention: Margie Sunahara
600 North 10th Street
Sacramento, CA 95814-0393

Phone: (916) 327-7816
FAX: (916) 327-1345
TDD: (800) 345-4275
e-mail: msunahara@calottery.com

D. Restrictions on Communications with Lottery Staff

No Bidder-initiated contact, other than normal business activities not associated with this IFB, will be allowed between Bidders and members of the Evaluation Committee, Lottery Commissioners, or Lottery staff after issuance of the IFB with the exception of the Lottery contact person and the Lottery's Business and Community Relations Office. Any other contact shall be considered improper and may disqualify a Bidder from further consideration. Requests for clarification by Bidders will be allowed provided that such requests are made in writing or via e-mail through the above-named contact.

Any questions regarding the Small Business or Disabled Veteran Business Enterprise participation requirements should be directed to the Lottery Business and Community Relations Office at (916) 323-3484, TDD (800) 345-4275, e-mail: tfontenette@calottery.com.

E. Projected Timetable

The following projected timetable is set forth for informational and planning purposes. The Lottery may change these dates without an IFB amendment at the Lottery's discretion, however, written notification will be provided to those Bidders on the mailing list.

<u>Action</u>	<u>Date</u>	<u>Time</u>
Solicitation Issued	March 7, 2003	
Written Questions Due	March 19, 2003	
Answers to Written Questions Issued	March 26, 2003	
Proposals Due	April 18, 2003	3:00 p.m. PST
Identification of Apparent Successful Bidder	April/May, 2003	
Commission Approval to Award Contract to Successful Bidder	April/May, 2003	
Projected Contract Effective Date	July 1, 2003	

F. Examination of All Requirements

Bidders should thoroughly examine this document and become fully aware of the scope of services required. Responses must be based solely on the information and materials contained in the IFB and any amendments issued by the Lottery. Bidders are to

disregard any newspaper advertisements or articles they may have read and any oral representations made.

G. Amendments to Solicitation Document

The Lottery reserves the right to amend this IFB prior to Contract execution. Notice of amendments will be sent to prospective Bidders who are on the mailing list.

If a Bidder fails to notify the Lottery of an error in this IFB which was known or reasonably should have been known to the Bidder, the Bidder shall submit a proposal at the Bidder's own risk. If awarded the Contract, the Bidder shall not be entitled to additional compensation or performance time by reason of the error or its later correction.

H. Written Questions

Questions regarding this IFB must be submitted in writing, via fax, e-mail or U.S. mail, to the Lottery contact person specified above by the date and time specified in the Projected Timetable. It is the sole responsibility of the Bidder to verify receipt of questions submitted. All Bidders on the mailing list will receive a copy of all written questions and answers.

The Lottery considers the written questions sought here of high importance. Written questions are meant to assist the Lottery in widening competition to the largest possible range of Bidders and to provide a forum where Bidders' concerns can be fairly addressed.

II. PROPOSAL REQUIREMENTS

A. Mandatory Submittals (Pass/Fail)

All proposals are to comply with the requirements outlined in this Section. Proposals that fail to satisfy all mandatory submittals in this section will not be considered for further evaluation.

1. Price Sheet

Bidder shall complete and submit Attachment 1, Price Sheet, as provided herein, in its proposal. Any changes made to the Price Sheet, including but not limited to exceptions, deletions, and additions, may be the basis for rejection of the proposal.

2. Transmittal Form

Bidder shall complete and submit Attachment 2, Transmittal Form. The Transmittal Form must be signed by a person identified as an individual authorized to contractually bind the Bidder.

3. Disabled Veteran Business Enterprise (DVBE) Participation Program

Bidders shall complete and submit Attachment 3, Disabled Veteran Business Enterprise Participation. The Good Faith Effort steps shall be submitted in a narrative format and if any DVBE participation is achieved through this effort, Bidders shall complete and submit the forms contained in Attachment 3.

The State of California has acknowledged disabled veterans for their service by establishing the Disabled Veteran Business Enterprise (DVBE) Participation Program. The program is intended to further their participation in state contracting, promote competition and encourage greater economic opportunity.

In accordance with Military and Veterans Code, section 999.2 et. seq. the State of California has established a DVBE Participation goal of three percent (3%). This applies to the overall dollar amount expended each year by state agencies. Departments have the discretion to include the participation within individual contracts.

Based upon the goods and/or services to be provided in this IFB (as outlined in the document entitled Scope of Services) the Lottery has set a DVBE Participation of 3%. Bidders will be required to meet this percentage through the utilization of DVBE as subcontractors OR make and document that they have made a Good Faith Effort to achieve participation. The mandatory requirement of DVBE participation is met if the Bidder is a DVBE.

If the DVBE utilized to meet the 3% DVBE is also certified as a small business or microbusiness, the DVBE can be utilized to meet any or all of the Small Business Participation for this solicitation.

The following steps are required to demonstrate a Good Faith Effort:

- a. Contact state, federal agencies, DVBE organizations, etc. to identify and recruit DVBEs. The Department of General Services' Website, www.dgs.ca.gov, contains a listing of over 600 DVBEs.
- b. Advertise in trade papers or publications that focus on DVBEs, unless time limits are imposed by the awarding department do not permit that advertising.
- c. Document that invitations to bid were submitted to potential DVBE contractors.
- d. Document that available DVBEs were considered.
- e. Identify any DVBE contractors and the associated percentage of participation that was achieved through this Good Faith Effort, if any.

To be eligible for certification as a Disabled Veteran Business Enterprise, your business:

- Must be at least 51% owned by one or more disabled veterans;
- Your daily business operations must be managed and controlled by one of more disabled veterans (the disabled veteran(s) who manages and controls the business is not required to be the disabled veteran business owner(s)), and,
- Your home office must be located in the U.S. (the home office cannot be a branch or subsidiary of a foreign corporation, foreign firm, or other foreign-based business).
- For certification purposes, a “disabled veteran” is: A veteran of the U.S. military, naval, or air service; has a service-connected disability of at least 10% or more; and must be a California resident.

DVBE Bidders or subcontractors must be currently certified (or document that certification has been requested) by the Department of General Services. A copy of that certification is required to be submitted along with the Disabled Veteran Business Enterprise forms attached hereto. For questions regarding the Department of General Services DVBE certification process, visit DGS's Website at www.dgs.ca.gov. and/or call that office.

Any questions regarding the DVBE participation requirements should be directed to the Lottery's Business and Community Relations Office (BCRO) at (916) 323-3484, TDD (800) 345-4275, FAX (916) 322-5155.

The successful Bidder's DVBE Participation shall become part of the Contract with the Lottery. The Lottery's BCRO shall monitor contractor compliance by requiring, at a minimum, annual reports on such participation.

4. Small and Microbusiness Participation

Bidders shall complete and submit Attachment 4, Small and Microbusiness Participation, as provided herein. If no small or microbusiness preference is requested, enter “N/A” on the forms.

5. Guaranty

Bidder shall complete and submit Attachment 5, Guaranty, as provided herein, in its proposal.

6. Contractor Disclosures

Bidders shall complete and submit Attachment 6, Lottery Security Division Contractor Disclosures. Contractors of the Lottery are required to disclose certain information pursuant to California Government Code section 8880.57. Any parent entity and any of the Bidder's subcontractors may also be subjected to the disclosure process. The Lottery may reject a proposal or terminate the Contract based on the results of these disclosures as provided in California Government Code sections 8880.57 and 8880.58. The successful Bidder will be required to notify the Lottery of the identity of potential subcontractors and may be required to periodically update other disclosure requirements during the term of the Contract. (See Section entitled Lottery Section 8880.57 Disclosures, Exhibit D.)

B. Proposal Packaging and Delivery

All proposals must be received by **April 18, 2003**, no later than **3:00 p.m.** **Fax or electronic transmissions will not be accepted.** Mail or deliver all proposals to:

California Lottery
Contract Services Section
600 North 10th Street
Sacramento, CA 95814-0393

Attention: Margie Sunahara
Response to IFB #9294

DO NOT OPEN IN MAILROOM

Postmark date will not constitute timely delivery. Proposals received after the above time **will not** be considered. Bidders are solely responsible for ensuring timely receipt of their responses.

The original proposal shall be marked "**Original**" and have original signatures. Any IFB attachment and/or form that requires a signature must be signed in ink (preferably in a color other than black) by a person who is authorized to bind the Bidder.

Proposals shall be submitted in a sealed package addressed as above and clearly identifying the Bidder making the submission. Within the sealed package, the Bidder shall include two (2) separately sealed envelopes clearly identifying the contents and company name and address:

- Envelope 1 shall contain one (1) original and three (3) copies of all the required submittals as stated in Section II, Proposal Requirements.
- Envelope 2 shall contain one (1) original and one (1) copy of completed Attachment 1, Price Sheet.

C. Conditions of Submission

Only one (1) proposal may be submitted by each Bidder. If a Bidder submits more than one (1) proposal, all proposals from that Bidder may be rejected. For purposes of this IFB, the term Bidder is defined to include a parent corporation of the Bidder, a subsidiary of the Bidder, and any other subsidiary of the Bidder's corporation.

In consideration of being allowed to submit a proposal, the bidder's proposal shall remain valid for a period of 180 days from the date proposals are due.

All proposals become the property of the Lottery upon receipt and shall not be returned to the Bidder.

Bidder will be allowed to withdraw a proposal provided that such withdrawal, in writing, is actually received by the Lottery prior to the deadline for final submission of proposals. Withdrawals must be filed in the same manner as a proposal. Proposals on file with the Lottery at the deadline for final submission are irrevocable.

Until Contract execution or until all Bidders' proposals are rejected, no employee, agent, or representative of any Bidder shall make available or discuss its proposal with the press, any elected or appointed official or officer of the State of California or any member of the Lottery unless specifically permitted to do so by the Lottery Director for the purposes of clarification and/or evaluation. This restriction shall not prohibit a Bidder from consulting with the Bidder's regularly retained attorney who may serve part-time as an appointed officer of a State board or commission which has no duties or responsibilities connected directly or indirectly with the Lottery or the Lottery Act of 1984, as amended.

D. Joint Offer/Joint Contractors

A joint offer (which is defined as two or more independent entities offering jointly in one proposal) which results in the award of a Contract shall be deemed one indivisible contract. Each joint Bidder will be jointly and severally liable for the performance of the entire Contract. The joint Bidders must designate, in writing, one individual having authority to represent all parties in all matters relating to the Contract. The Lottery assumes no responsibility or obligation for the division of orders or purchases among joint Bidders.

E. Cost of Submission

In consideration of being allowed to submit a proposal, the Bidder releases the Lottery and the State of California from any and all claims for the costs incurred by a Bidder in this procurement process.

F. Proposal Confidentiality

1. Non-winning proposals submitted in response to this IFB will be maintained by the Lottery until the awarded Contract (including all extensions, if any) is terminated or expires. The successful proposal will be maintained by the Lottery for four (4) years after the date the Contract is terminated, expires, or is canceled. The Lottery may destroy the records at the expiration of the applicable period.
2. As a public agency, the Lottery is subject to laws and regulations which provide that the public has the right to access information maintained by public agencies, subject to specified exceptions. After the announcement of the apparent successful Bidder and during the record retention period, all responses to this IFB are subject to disclosure to the extent required by law.
3. In its response to this IFB, each Bidder may designate any portion(s) of its proposal as proprietary or confidential, and thus exempt from disclosure, citing the specific statutory authority upon which it relies. A Bidder's assertion of exemption will not be binding on the Lottery, but will be considered prior to the Lottery's review. If a Bidder does not appropriately designate confidential or proprietary portions of its proposal or fails to provide valid legal authority for such designation, all portions of the proposal may be subject to disclosure.
4. If a Bidder does designate portions of its proposal as proprietary or confidential and the Lottery receives a request to disclose the information so designated, the Lottery will send written notification to Bidder. Bidder must, within the timelines established by the Lottery, send the Lottery a written request not to disclose the documents Bidder deems exempt from disclosure, citing the specific legal authority upon which it relies. Failure to respond to the Lottery's notice may result in disclosure of the information. The Lottery will review Bidder's request in accordance with the provisions of applicable law, and promptly notify Bidder if, notwithstanding its request, the Lottery determines it is required to disclose the subject information.
5. If the Lottery complies with Bidder's request not to disclose the documents and/or records, Bidder shall take appropriate and immediate action, at its own expense, to obtain a judicial determination regarding the confidentiality of the requested records. In this event, Bidder shall pay all costs, including attorney's fees, incurred by the Lottery in its participation in the action.
6. If the Lottery complies with Bidder's request and does not disclose or produce portions of Bidder's proposal, and if the party requesting the information/documents prevails in an action brought to enforce disclosure or production, the Bidder shall promptly indemnify Lottery for any and all attorney's fees and/or costs incurred in bringing or defending an action, including any costs associated with compliance with a court order.

G. Rejection or Selection of Proposal

Issuance of this IFB in no way constitutes a commitment by the Lottery to award a Contract. The Lottery, in its sole discretion, reserves the right to reject any or all proposals or any portion of all proposals received in response to this IFB if the Lottery determines that it is in the best interest of the Lottery to do so. The Lottery may reject any proposal, which is conditional, incomplete, or contains one or more material deviations. If the Lottery determines, in its sole discretion, that all Bidders fail to meet one or more of the mandatory requirements, the Lottery may elect to continue the evaluation of the proposals and to select the proposal which offers the lowest cost that maximizes the benefits to the Lottery.

III. EVALUATION AND AWARD

The Lottery will conduct a fair and impartial evaluation of proposals received in response to this IFB. The evaluation process comprises of two steps: Mandatory Submittals (Pass/Fail) and Price Sheet Evaluation.

A. Mandatory Submittals (Pass/Fail)

The Pass/Fail items are those items, listed in the section entitled, Mandatory Submittals, that Bidders must submit. Bidders' proposals passing Mandatory Submittals will be evaluated for Price.

B. Price Sheet Evaluation

Bidders' Price Sheets will be evaluated and the Bidder with the lowest cost will be awarded the contract. Any changes made to the Price Sheet, including but not limited to exceptions, deletions, and additions, may be the basis for rejection of the proposal. If two or more bidders tie with the lowest cost, a coin flip will determine the apparent successful bidder.

C. Small Business Participation (SBP) Preferences

Small Business Participation is not mandatory. Preference will be given those Bidders requesting participation. (For evaluation purposes, the SBP shall be based on an estimated average of approximately \$135,000 over the contract period.)

The Small Business Procurement and Contract Act (Gov. Code Section 14835 et. seq.) requires that a fair share of the State's purchases and contracts for goods, information technology, services and construction be placed with small business or microbusiness. In order to facilitate the participation of these businesses, the Act mandates that state agencies: (1) establish a small business participation goal, (2) provide a 5% small business preference; and (3) provide a nonsmall business preference of up to a maximum of 5% for bidders utilizing small business or microbusiness as subcontractors.

In carrying out this mandate, the Lottery has established a Small Business Participation, Small Business Preference and Non-small Business Preference for utilization of small and microbusiness enterprises for this solicitation.

a. Small Business Participation

Based upon the nature of the goods/services to be utilized under this solicitation (as outlined in the Scope of Services, Exhibit A), the California Lottery has set a Small Business Participation of 15% for non-small businesses that provide for small business or microbusiness subcontractor participation for the contract resulting from this solicitation.

Bidders who qualify as a small business or microbusiness have met this participation goal and are eligible for the small business preference by virtue of their small business status.

Non-small business bidders that provide for small business or microbusiness participation are also eligible for this preference.

b. Small Business or Microbusiness Bidder Preference

As this IFB is to be awarded to the lowest cost bid, the preference given to a small business or microbusiness bidder will be 5% of the lowest cost bid.

To be eligible for the Small Business Preference as a "small business", a company must be an independently owned and operated business, not dominant in its field of operation, with its principal place of business located in California and officers domiciled in California, and which together with affiliates is:

- A service, construction or non-manufacturer with 100 or fewer employees and an average annual gross receipts of ten million dollars (\$10,000,000) or less over the previous three years, **or**
- A manufacturer with 100 or fewer employees A manufacturer is a business that is:
 - (1) Primarily engaged in the chemical or mechanical transformation of raw materials or processed substances into new products; and
 - (2) Classified between Codes 2000 to 3999, inclusive, of the Standard Industrial Classification (SIC) Manual published by the United States Office of Management and Budget, 1987 edition.

A "microbusiness" is a small business that, together with affiliates, has average annual gross receipts of two million five hundred thousand dollars

(\$2,500,000) or less over the previous three years, or is a manufacturer, as defined above, with 25 or fewer employees.

c. Non-small Business Bidder Preference

As this IFB is to be awarded to the lowest cost bidder, a preference will be given to non-small business bidders that provide for small business or microbusiness subcontractor participation. Only non-small business bidders who provide for small business or microbusiness subcontractor participation are eligible for this preference.

The preference shall be up to a maximum of 5% of the lowest cost bid. Non-small bidders who meet the small business participation of 15% will receive the maximum 5% preference.

Non-small business bidders who subcontract less than the 15% small business participation shall receive a pro-rated portion of the 5% preference based upon the percentage of participation commitment.

If a proposing bidder is currently certified as a small business or microbusiness by the Department of General Services, Office of Small Business/DVBE Outreach and Education or any city, county, federal, etc., certification program meeting the criteria set forth (gross receipts and number of employees), only a copy of that certification is required.

If a proposing bidder is requesting small business or microbusiness certification with the Lottery, the bidder is required to submit a complete set of its signed Federal Tax Returns for the past three (3) years as well as Attachment 4, Small Business and Microbusiness Certification Form.

Only the successful bidder will be required to provide the tax return information for the small business or microbusiness subcontractors requesting Lottery certification. However, a completed Attachment 4 is still required to be provided.

For bidders and/or small business or microbusiness subcontractors requesting Lottery certification, Attachment 4 must have the information on the "Gross Annual Receipts" and the "Number of Employees" completed for qualification purposes.

Bidders requesting either of the Small Business Participation Preferences are required to complete and submit the forms in Attachment 4.

Any questions regarding the Small Business Participation Preferences should be directed to the Lottery's Business and Community Relations Office (BCRO) at (916) 323-3484, TDD (800) 345-4275, FAX (916) 322-5155.

The successful bidder's small and microbusiness participation goal shall become part of the Contract resulting from this IFB. The Lottery's BCRO shall monitor Contractor compliance by requiring, at a minimum, annual reports on such participation.

D. Nonmaterial Deviation

The Lottery may waive any nonmaterial deviation in a proposal. The Lottery's waiver of any deviation shall not modify the IFB requirements nor excuse the Bidder from fully complying with the Contract requirements.

E. Contract Execution

The Lottery Director or designee will make the final determination of the Contract award subject to Commission approval. In making this determination, the Lottery Director or designee may be assisted by an Evaluation Committee.

Failure or refusal on the part of the intended awardee to begin performance within ten (10) State working days of Contract award may be treated as repudiation of the Contract at the sole discretion of the Lottery. The Lottery may then either 1) select the next ranked proposal which conforms to the requirements of this IFB, or 2) reject all proposals. The Lottery reserves its rights to damages associated with a repudiation of the Contract.

The Lottery reserves the right to cancel any and all elements of a procurement or rescind an announced award at any time up to and including execution of the actual contract with the successful Bidder.

F. Hiring of Lottery Personnel

At all times during the proposal evaluation period and continuing through the contract award or the rejection of all proposals, Bidders are prohibited from officially or unofficially making any employment offer or proposing any business arrangement whatsoever to any Lottery employee involved in the evaluation of proposals. A Bidder making such an offer or proposition may be disqualified from further consideration.

G. Protest to the Award

Protests shall be handled in accordance with Section 9 of the California Lottery Competitive Bidding Procedures Regulations. A copy of the regulations is available on the Lottery's web site: www.calottery.com.

Exhibit A
SCOPE OF SERVICES

Contractor will be responsible for providing inventory services* of Lottery-specified Scratchers® tickets pursuant to criteria identified in the Lottery-provided specifications. Contractor will be responsible for providing all labor, material and equipment for such services.

*For the purpose of this IFB, inventory services include, but are not limited to: 1) physical counts; 2) manual key entry; 3) bar code counts; 4) bar code entry; 5) production of inventory labels for all tickets inventoried; 6) audits/quality controls/assurances of data entry; 7) generation of disk files; 8) generation of printed reports; and 9) comparison of inventory report results, etc.

Specifications:

1. Types of Inventories

An annual inventory shall be conducted each year and completed by June 30th. This annual inventory shall include ALL Lottery Scratchers® tickets.

Contractor shall conduct periodic inventories (approximately every other month) of specific Scratchers® tickets of Lottery-closed games. Contractor shall deliver disk and/or report on an agreed-upon date after completing game inventory.

2. Location of Work

Contractor shall conduct inventories in Lottery's Distribution Centers in Sacramento and Rancho Cucamonga, California. Approximately 60% of the workload shall be in Sacramento. Contractor shall be responsible for all travel costs.

3. Lottery Products Inventoried by Contractor

- a. Virgin Stock - Cases/boxes of tickets which have not been distributed. These cases are unopened and Contractor shall be required to enter case/box data. Contractor shall enter 40 boxes per hour with 100% accuracy.
- b. Full Pack - Packs of 100, 200, or 250 tickets in numerical sequence. Contractor shall be required to bar code or key enter ticket data AND key enter other data. These are recorded as one (1) record per pack showing ticket numbers from 000-099, 000-199, or 000-249. Contractor shall audit one (1) in every seven (7) boxes.
- c. Partial Pack - Less than full pack tickets or full packs of damaged tickets returned by Retailers. Inventory only required if requested under certain circumstances, i.e., reconciliation of a closed game, audit request, etc. Contractor shall be required to enter first and last ticket number AND

key enter other data. There are no Partial Packs in Rancho Cucamonga.

4. Work Product

- a. Disk files – Contractor shall provide one (1) disk per game.
- b. Printed data/reports – upon request by Lottery Contract Manager.

5. Technology

The Contractor's bar code scanner shall read the Lottery Scratchers® tickets (packs/cases) using the following bar code technology:

The unique bar coded representation of the game, pack and ticket number printed on the front of each ticket. The bar code shall contain 22 decimal digits and represents a 3-digit game identifier, a 6-digit pack number, a 3-digit ticket number, an encrypted 8-digit validation number/prize code, and a 2-digit check code.

Example of visual bar code: 177-100001-1-000

The bar code shall be standard interleaved 2-of-5 symbology utilizing standard start and stop characters. Each bar code character shall encode 2 decimal digits and measures 0.3" high and 0.1875" in length. Each bar code shall measure approximately 2.0625" in length. The bar code will have quiet zones a minimum of 0.25" on each end. From the left, the bar code shall start with a narrow bar, narrow space, narrow bar, narrow space (start character) and end with a wide bar, narrow space, narrow bar (stop character).

The bar code font utilized shall be:

- Narrow bar = 2 dots
- Narrow space = 3 dots
- Wide bar = 7 dots
- Wide space = 8 dots

The inventory data must be read against tapes received from a Lottery print Contractor using the ASCII FORMAT.

EXHIBIT B

CONTRACT TERMS AND CONDITIONS

This Section contains terms and conditions that shall apply to the Contract.

GENERAL PROVISIONS

1.1 Term of Contract

The term of the Contract shall be for two (2) years beginning July 1, 2003.

1.1.1 Option to Extend

The Lottery may unilaterally extend the term of this Contract under the same terms and conditions for up to one (1) year from the Contract's expiration date.

1.1.2 Extended Service for Bidder Change

The Lottery further reserves the right to continue operating under or further extend the initial Contract, or any extension thereof, on thirty (30) days notice for multiple ninety (90) day periods as the Lottery deems necessary for transition if a different contractor is chosen for a subsequent contract. To meet this requirement, Contractor, in consideration for entering into the Contract, shall maintain the inventory services and data ("Product") in a state of readiness for any such periods after the completion of the Contract. "State of readiness" means having the capability of extending the current Contract operations beyond the previously scheduled Contract term end date.

1.2 Relationship and Authority

A. Contractual Relationship.

The California Lottery Commission ("Commission"), as the governing body of the California Lottery and Contractor hereby agree that the Lottery is charged under state law with the duty to operate "so as to produce the maximum amount of net revenues to supplement the total amount of money allocated for public education in California." Contractor acknowledges that the Commission has the authority to exercise all powers necessary to effectuate the purpose of the California Lottery Act. The Commission will retain all such authority under the Contract. The Commission and Contractor further agree that Contractor is accountable and subject to the supervision of the Commission and its designated administrative officers under the Contract. In addition, the Commission and Contractor agree that Contractor shall be subject to all policies, rules and regulations of the Commission.

B. Authority.

The laws of the State of California and any federal laws applicable to the Lottery govern the Contract. Contractor specifically agrees to be bound by all laws and court orders imposed upon the Lottery, insofar as they relate to the Contract. Contractor shall perform its duties and obligations subject to Lottery audit and oversight and the other terms and conditions of the Contract. Contractor shall have the power and authority, consistent with the limitations herein, to take such actions as may be necessary or desirable to properly, efficiently, fully and completely perform the Contract.

C. Jurisdiction and Venue.

The proposal process, the award procedure, and any Contract resulting from the IFB shall be governed by and interpreted in accordance with this Section. By execution of the Contract, Contractor acknowledges and specifically agrees that the jurisdiction for any action hereunder shall be in the Superior Court for the State of California. The venue for any action hereunder shall be the Superior Court for Sacramento County, California. As consideration for entering into the Contract, Contractor waives access to any other court that may have concurrent jurisdiction inside or outside of California, and also agrees to exhaust all remedies provided for in the Contract prior to instituting any litigation relating to the Contract.

1.3 Obligations of the Parties

1.3.1 Contract Managers

Contractor designates _____ as its Contract Manager. Lottery designates _____ as the "Contract Manager." The contract managers are responsible for assuring compliance with the terms and conditions of the Contract and, unless otherwise specified in the Contract, shall have the authority to act for and bind the respective party in connection with the implementation of all aspects of the Contract. Whenever the Contract requires any action to be taken by the Lottery, such action shall be the sole responsibility of the Lottery's Contract Manager unless otherwise specifically specified. Any action taken by any other employee of the Lottery in connection with the implementation of all aspects of this Contract without the specific written approval of the Lottery's Contract Manager shall be of no legal effect. The parties shall notify each other in writing within five (5) State working days of a proposed change in a contract manager. Any change in Contractor's Contract Manager shall be subject to Lottery approval.

1.3.2 Licenses and Permits

Contractor shall grant to, or obtain in the name of the Lottery, a perpetual, non-revocable, non-transferable, and non-exclusive license to use all software and related documentation used in the performance of the Contract. Contractor shall also secure or cause to be secured all license(s) and permit(s) (including those necessary for individual employees, subcontractors, and/or agents) required in order to provide the Product pursuant to the Contract. Lottery may annually review and/or require as part of the annual audits required by the section entitled Access to Financial and Accounting Records review of Contractor's service and functionality levels. Contractor shall retain and upon request provide the Lottery with copies of all required license(s) and permit(s). Contractor shall maintain all required license(s) and/or permit(s) as current.

1.3.3 Lottery Approval of Deliverables

All approvals, orders for correction or disapprovals from the Lottery shall be in writing. If the Lottery rejects a Product as unacceptable, the Contractor shall make required corrections within the time frame required by the Lottery's Contract Manager.

Failure of the Contractor to obtain the Lottery's prior approval of Products shall not relieve the Contractor of performing the related Contract responsibilities and providing related required Products to the Lottery. The Lottery shall have no liability for payment of any work, of any kind whatsoever, which it commences without prior approval from the Lottery's Contract Manager.

1.3.4 Parties' Responsibilities Upon Termination and Transfer to New Contractor

Upon termination or other expiration of this Contract, each party will assist the other party in its orderly termination and the transfer of all assets, tangible and intangible, as may facilitate the orderly, non-disrupted business continuation of each party. Contractor shall continue to provide and support the Product until migration to a replacement contract with a new contractor is complete. If the migration effort is required to continue beyond the term of this Contract, Contractor agrees to extend the Contract in accordance with the section entitled Extended Service for Bidder Change for the time necessary to complete the migration and orderly transfer.

1.3.5 Contractor's Compliance with Lottery Directives

The parties shall strictly adhere to any order of the Lottery's Deputy Director for Security relating to security and integrity of Contract performance. The Lottery designates _____ as its Deputy Director for Security and shall notify Contractor within five (5) State working days prior to a change in this designee.

1.3.6 Confidentiality of Parties

Contractor shall keep confidential all information and materials related to the Contract and shall not disclose any such information or materials to third parties unless approved in writing by the Lottery's Contract Manager, required by court order, or otherwise specifically permitted by the Contract. Contractor shall identify all of its information and materials it considers proprietary or confidential. Upon request for disclosure of such information and materials pursuant to the California Public Records Act, the Lottery shall immediately notify Contractor of the request and the identity of the requestor. Contractor shall within two (2) State working days notify the Lottery in writing which of the requested information and/or materials identified as proprietary or confidential the Lottery is requested to withhold from the requestor. Contractor shall defend, indemnify and hold harmless the Lottery, the Lottery Commission, Commission members, and Lottery officers, and employees from any and all actions and liability arising as a result of or in connection with an attempt to require disclosure of information and/or materials withheld because they have been identified by Contractor pursuant to this subsection. Any defense undertaken pursuant to this subsection shall be subject to the provisions of the section entitled Indemnification.

1.3.7 Nondisclosure of the Lottery's Plans

The Contractor must use its best efforts to assure that the details of the public relations activities or games planned by the Lottery are not disclosed to persons or organizations other than the personnel, agents, or subcontractors of the Contractor whose assistance in the development of public relations materials or games is necessary, until the Lottery announces same. The Contractor shall ensure that its employees, agents and subcontractors adhere to this requirement.

1.3.8 Contractor's Compliance with Labor Code

Contractor shall comply with all applicable provisions of the Labor Code, including, but not limited to, all prevailing wage requirements.

1.4 General Warranties and Representations

Contractor warrants and represents that:

- A. Contractor is fully authorized and prepared to enter into and fully perform the terms and conditions of the Contract;
- B. Contractor has secured or will have secured all necessary rights, clearances and/or licenses with respect to all material and elements embodied in or used in connection with the performance of the Contract and any extension periods;

- C. Any manufacturer or product warranties shall extend to any components of the Product supplied during the Contract and any extension periods;
- D. The Product shall in all respects meet or exceed all of the Lottery's requirements set forth in the IFB, including, but not limited to, Lottery's functional, technical and maintenance requirements, and shall be suitable for the duration of the Contract and any extension periods;
- E. Contractor will comply with all federal, State, and local laws, ordinances, rules, and regulations applicable to its activities and obligations under the Contract;
- F. Contractor has not previously and will not grant any rights in the Product or any components of the Product that are inconsistent with the rights granted to Lottery herein;
- G. The Product (including all components thereof), Contractor's performance hereunder, and the use by the Lottery of the Product as contemplated in the Contract, do not and will not, to the best of Contractor's knowledge, infringe any copyright;
- H. All services provided by Contractor pursuant to the Contract will be performed in a prompt, competent manner by properly trained individuals in accordance with the highest standards of Contractor's industry;
- I. Contractor will, at all times during the term of the Contract and any extensions thereof, be qualified and professionally competent, and will procure and maintain, at its expense, all licenses, permits, and governmental approvals, if any, necessary to perform its obligations under the Contract;
- J. No software program, process, composition, writing, equipment, appliance or device, or any trademark, service mark, logo, idea, or any other work or invention of any nature or any other tangible or intangible property whatsoever developed, provided or used by Contractor (other than that provided or used by the Lottery or another contractor at the Lottery's request) in connection with its performance under the Contract, infringes or will infringe any patent, copyright, trademark, logo and/or other service mark of any other person, or entity, or is or will be a trade secret of any other person. Contractor warrants and represents that it has appropriate products and controls in place to ensure against such infringement in the acquisition, operation or maintenance of the Product. Upon request, Contractor shall provide the Lottery with documentation indicating a third party's written approval and license for Contractor to use and sublicense the third party's copyright, patent, trademark or trade secret; and,
- K. Contractor shall maintain the minimum staffing levels set forth in its plan submitted in response to the IFB.

1.5 FISCAL PROVISIONS

1.5.1 Reduction of Funds

The obligations of the parties under this Contract are subject to the availability of funds. If sufficient funds are not appropriated by the California Lottery Commission to the Lottery for this Contract, it shall be amended to reflect any reduction in funds or terminated after a thirty (30) calendar day written notice to the Contractor detailing the effective date of such termination.

1.5.2 Frequency of Payment

Contractor shall be paid monthly in arrears upon submission of an invoice approved by the Lottery.

1.5.3 Tax Reporting

The Contractor is hereby notified that section 6041 of the Federal Internal Revenue Code and section 18646 of the State Revenue and Taxation Code require the State to report certain payments to individuals. No claims for payment shall be processed by the State without the necessary information as specified in section 6041 of the Federal Internal Revenue Code and section 18646 of the State Revenue and Taxation Code. The Contractor agrees to abide by these conditions and to provide the information requested for those tax-reporting requirements.

1.5.4 Withholds

- A. The Lottery shall have the right to withhold or delay payments to Contractor, in whole or in part, if Contractor fails to perform its material obligations set forth in the Contract.
- B. For the last month of the Contract and any extensions invoked pursuant to the section entitled Extended Service for Bidder Change the Lottery may withhold up to five (5) percent of its payments to Contractor which shall be released solely in the Lottery's discretion upon completion of satisfactory transfer to a new contractor.
- C. Amounts due the Lottery by Contractor, including, but not limited to, any amounts set forth in the sections entitled Fiscal Provisions and Loss Prevention, may be deducted or offset by the Lottery from any money payable to Contractor pursuant to the Contract.
- D. Should Contractor cure the performance failure giving rise to the withhold, the Lottery shall review the matter with Contractor and determine, within its discretion, whether the Lottery will continue to withhold payment or otherwise offset money due Contractor.

1.5.5 Full Compensation

The compensation to be paid the Contractor, as provided herein, shall be in consideration for all of the Contractor's services and administrative expenses including travel, per diem, services related training and all applicable taxes, unless otherwise agreed by both parties.

1.5.6 Invoicing

Contractor will not issue any invoices for the Contract until final approval by the Commission and execution of the Contract. All payments to Contractor under the Contract will be subject to the Lottery's payment terms, which are net thirty (30) calendar days from receipt by the Lottery of a correct invoice.

Following execution of the Contract, Contractor shall submit invoices in triplicate on a monthly basis, in arrears, noting the Contract number, detailing the subject matter of the invoice to:

**California Lottery
Accounting Operations and Tax Bureau
P.O. Box 778
Sacramento, CA 95812-0778**

Each invoice must include documents necessary to support and substantiate costs. Contractor is required to mark "Final Invoice" on the last invoice to be submitted to the Lottery for payment.

If no final invoice is received within one hundred and eighty (180) calendar days after the termination of the Contract or expiration of the Contract by its own terms, Contractor waives the right to receive any further payments under the Contract.

1.6 Loss Prevention

Contractor shall acquire and maintain insurance/bond coverage against such hazards and in such amounts as set forth in this section 1.6 and following subsections 1.6.1 through 1.6.2 and shall defend, indemnify and hold the Lottery harmless pursuant to subsections 1.6.3. Contractor shall furnish to Lottery evidence of insurance within thirty (30) calendar days after execution of the Contract and shall remain in force during the term of the Contract and any extension(s). The insurance shall have a term of not less than one (1) year. The insurance shall be issued by companies rated A-minus or better by the AM Best Company or meet the approval of the Lottery. The Lottery, Lottery Commission, Lottery Commission members, Lottery officers and employees shall be named as loss payee in each required insurance policy except for Workers' Compensation. Each policy shall contain a provision whereby it cannot be canceled except by giving thirty (30) days written notice to insured or certificate holders. If Contractor's carrier cancels any policy, the

Contractor shall immediately obtain a replacement policy prior to expiration of the thirty (30) day notice period. Failure to provide and maintain any insurance or bonds may result in the termination of the Contract.

1.6.1 Workers' Compensation

Contractor shall maintain Workers' Compensation insurance for all of its employees who will be engaged in the performance of the Contract pursuant to the requirements of California Labor Code section 3700.

1.6.2 Commercial General Liability or Public Liability Insurance

Contractor shall maintain commercial General Liability insurance with limits of at least one million dollars (\$1,000,000) for any one person and one million dollars (\$1,000,000) for any one occurrence for death or bodily injury and one million dollars (\$1,000,000) for any one occurrence for property damage. The policy shall include coverage for liabilities arising out of premises, operations, independent contractors, products and completed operations with a two million dollars (\$2,000,000) aggregate, personal and advertising injury, and liability assumed under an insured Contract. The policy must include the Lottery as loss payee, insofar as the operations under the Contract are concerned.

1.6.3 Indemnification

A. Contractor shall defend, indemnify, and hold harmless, at Contractor's expense, the State of California, the Lottery, Lottery Commission, Lottery Commission members, Lottery officers, employees and agents, and their respective successors, heirs, representatives, administrators and assigns, from and against any and all responsibilities, suits, judgment, awards, costs, damages, claims, demands, actions, causes of action, expenses or liabilities of every nature threatened or brought against, sustained or incurred by any of them, whether joint, several, or individual (hereafter referred to as "claims") resulting or arising from or in any way connected with or based on any of the following: (i) the activities of Contractor or its officers, employees, subcontractors, or agents in connection with the Contract; (ii) a breach of a term of the Contract by Contractor; (iii) a claim against the Lottery which, if true, would constitute a breach of any of the representations and warranties set forth in the section entitled General Warranties and Representations; and (iv) any protest filed by a third party following announcement of Contractor as the proposed successful Bidder of the Contract; provided that the Lottery provides Contractor reasonable assistance, at Contractor's expense, in the defense of such claims. Contractor's obligations hereunder shall include any and all losses, damages, liabilities, settlements, judgments, fines, costs, fees, and expenses of any nature whatsoever, including but not limited to fees of attorneys and other professionals at trial and on appeal.

- B. Neither Contractor nor any attorney engaged by Contractor will defend against such claims in the name of the Lottery, nor purport to act as a legal representative of the Lottery, without the prior written consent of the Director of the Lottery.
- C. The Lottery may, at its election and at the Contractor's expense, assume its own defense and settlement in the event that the Lottery determines that: (i) Contractor is prohibited from defending the Lottery; (ii) Contractor is not adequately defending the Lottery's interests; or (iii) an important governmental principle is at issue and the Lottery desires to assume its own defense.
- D. The indemnities set forth in this subsection are in addition to, and not in lieu of, any other indemnities provided hereunder or by law.
- E. Contractor shall give the Director immediate notice in writing of any action or suit filed against Contractor that is related in any way to the Contract. Likewise, the Lottery will notify Contractor of any action or suit filed against Lottery relating to the Contract.

1.7 Contract Management

1.7.1 Contract Manager Communications

Contractor's Contract Manager and the Lottery's Contract Manager shall meet as determined by the Lottery's Contract Manager to discuss Contractor's performance, the status of corrective action plans, corrective actions, change requests, and other Contract matters as necessary. Key managers and support staff from both the Contractor and the Lottery may attend these meetings at the request of either Contract Manager.

Issues of potential disagreement regarding Contract matters such as overall performance, terms and conditions, payments, service levels, changes in contracted services, and other proposed changes require written communications between the respective Contract Managers.

1.7.2 Staff Communications

Contractor's staff at all levels shall be permitted to have contact with Lottery staff. Staff with like job duties shall be encouraged to share best practices. It is mutually understood that statements made by staff do not bind the parties and are not considered as official positions.

1.7.3 Performance Management

1.7.3.1 Establishing and Adjusting Service Level Standards

The Lottery intends to manage the quality of Contractor's performance through the establishment of performance standards, including service levels. The Lottery may at its discretion establish the minimum acceptable level of service for certain services to be provided by the Contractor. The Lottery may set the minimum acceptable service levels for other services as the result of negotiations between Contract Managers.

As a result of the experience gained during the actual performance of the Contract, the effectiveness and relevance of service level standards may be reviewed at the request of either party. As a result of these reviews, the Contract Managers may jointly recommend changes. It is anticipated that changes in certain service level standards may increase the Contractor's responsibilities, while other changes may provide the Contractor with increased flexibility. Formal changes to service level standards will require written approval from both parties in accordance with the section entitled Amendment.

1.7.3.2 Service Quality Issue Escalation

Service quality issues identified by the Lottery Contract Manager may be escalated at his or her discretion. The Lottery Contract Manager may require the Contractor to produce corrective action plans in cases where he or she determines that continued compliance with service standards is in doubt. The Lottery shall review, approve, or correct and approve, the Contractor's plan and the Contractor shall follow the approved plan. In the event a corrective action plan is still unsuccessful after the expiration of the expected time frame, the Contractor's designated senior level corporate manager shall propose a new plan to the Lottery Director's designee in a meeting at the Lottery Headquarters in Sacramento. Upon acceptance of this new plan, the Contractor's designee shall report on the progress of this plan at time intervals to be determined by the Lottery Director's designee. When the service standard is met, the plan will be complete.

1.7.4 Problem Management

1.7.4.1 Day-to-Day Problem Reporting

The Lottery Contract Manager shall specify the types of problems requiring the Contractor to immediately notify the Lottery and the process for providing notice. The specification shall also identify the types of problems requiring formal written Incident Reports as set forth in the section entitled Progress Reports.

1.7.4.2 Complaint Resolution

The Lottery anticipates receiving occasional complaints about Contractor performance from retailers, Lottery employees, other vendors and/or the public. The Lottery Contract Manager will forward any such complaint in writing to the Contractor's Contract Manager. Contractor shall timely investigate all complaints, and shall prepare and submit a written assessment of the complaint. The assessment shall specify a conclusion and, if warranted, identify corrective action.

1.8. Financial Provisions

1.8.1 Invoicing and Payment

Contractor shall forward invoices pursuant to the section entitled Invoicing. The Lottery Contract Manager or designee shall review the invoice for completeness and accuracy and either approve or dispute it. Disputed invoices shall be returned to the Contractor with an explanation.

1.8.2 Financial Assessments

Financial assessments are reimbursement claims that the Lottery may impose if the service level standards set forth in this Contract or as subsequently agreed upon, are not met. The Contract Managers, at either request, shall meet to jointly assess overall performance in satisfying standards.

If the Lottery's Contract Manager determines that the Contractor has not complied with a service level standard and that an assessment should be imposed, the Lottery's Contract Manager shall notify the Contractor in writing. The notice shall include:

- The date(s) of the incident(s) that triggered the assessment
- A brief description of the incident(s)
- The relevant Contract reference
- Instruction to the Contractor to deduct the assessment from the next invoice
- An explanation of how to protest the claim

Contractor shall deduct the assessment amount from the amount billed in the next invoice. If the stated amount is not deducted and the Contractor does not protest the amount, the Lottery shall withhold or delay the assessment amount from Contractor's payment as provided in the section entitled Withholds.

If the Contractor disputes either the assessment amount or whether the Lottery is entitled to any assessment, the parties shall mutually attempt to negotiate an amicable resolution of the dispute in accordance with the section entitled Dispute Resolution.

1.9 Contract Oversight

1.9.1 Background Investigations/Lottery Approval of Staffing

The Lottery may investigate Contractor, its officers, directors, principals, investors, owners, employees or other associates, and/or the officers, directors, principals, investors, owners, employees, and other associates of the Contractor's parent entity, subsidiaries, and/or subcontractors at any time during the life of the Contract, at the discretion of the Director of the Security Division. The Lottery may reject a proposal or terminate the contract based on the results of these investigations as provided in California Government Code sections 8880.57 and 8880.58.

Furthermore, Contractor understands and agrees that, in furtherance of the Lottery's full disclosure requirements, any person associated with the performance of the Contract may be fingerprinted and may be required to complete a Personal History Statement and an Authorization to Release Personal Background Information form.

The Lottery reserves the right to disapprove any Contractor and/or subcontractor personnel assigned to the Contract. Any personnel deemed unacceptable to the Lottery shall immediately be removed from the Contract and all facilities. All subcontracts must include a provision implementing this right.

Contractor and/or subcontractor personnel shall not be assigned to the Contract if they have ever been convicted of a felony, gambling-related offense, or a crime involving dishonesty. This Contract may be subject to termination if the Contractor knowingly assigns to or fails to remove from the Contract, personnel with criminal convictions as described above.

1.9.2 Most Favored Price

The price charged the Lottery for any products or services provided to the Lottery pursuant to this Contract will always be Contractor's lowest price charged any other similar customer for those products/services or equivalent products/services regardless of any special terms, conditions, rebates or allowances of any nature. If Contractor sells the same or equivalent products/services as provided to the Lottery pursuant to this Contract to any other similar customer at a price less than that set forth herein or identified pursuant hereto, Contractor shall adjust its price to the lower price. The difference from the price set forth for the Lottery for all products or services provided under this Contract shall be offset pursuant to the section entitled Withholds. Contractor shall notify the Lottery of any more favorable prices paid to

Contractor by other similar customers that would cause this subsection to become operable.

1.9.3 Project Monitoring

The Lottery and all authorized State control agencies shall have access to all internal and external reports and documents used by the Contractor in the performance and administration of this Contract. The Contractor shall provide all duly authorized representatives of the Lottery or the State full access to any and all Contractor and subcontractor procedures not described elsewhere in this Contract.

1.9.4 Progress Reports

The Lottery's Contract Manager and the Contractor's Contract Manager may meet as often as necessary, but not less than once a year, to review progress and performance. The review criteria shall include, but not be limited to, problems encountered under the Contract, future performance under the Contract, and any other subject relating to completion of tasks under this Contract. A copy of each review may be prepared by the Lottery's Contract Manager and forwarded to the Contractor.

1.9.5 Small Business and/or DVBE Participation Monitoring

The Lottery's Business and Community Relations Office (BCRO) shall monitor the Contractor's Small Business Participation and the Disabled Veteran Business Enterprise (DVBE) Participation, if applicable. At a minimum, annual reports from the Contractor will be required on such participation.

1.9.6 Access to Financial and Accounting Records

The Contractor and all its subcontractors for this Contract are required to maintain financial and accounting records and other documents and evidence, including but not limited to electronic versions, hereinafter "documents", pertaining to the fulfillment of the Contract obligations in accordance with generally accepted accounting principles and other procedures that may be specified by the Lottery. These documents must be made available to the Lottery, its designees, the California State Controller or other State agencies during the Contract term and any extension thereto (see Gov. Code sec 8880.67). These documents must be retained for four (4) years from the date of final payment of the Contract.

The Lottery reserves the right to audit all Contractor and subcontractor documents and procedures, as they relate to this Contract, using Lottery employees, its designees or other State vendor employees as provided by law.

A. The Contractor shall make available to the Lottery authenticated requisitions for payment (including invoices from suppliers, etc.) and proof of payment to third

parties for all work and services on behalf of the Lottery's accounts. Said items shall be made available on demand to the Lottery.

- B. The Contractor shall make available to the Lottery all documents relating to the Contract as well as expenses incurred by the Contractor on the Lottery's behalf for which Contractor claims reimbursement. All documents shall be open to examination and inspection by an authorized representative of the Lottery at all reasonable times.

1.9.7 Personnel

The Contractor shall assign the personnel identified in its proposal to this Contract. If the Lottery becomes dissatisfied with any Contractor personnel, the Lottery will notify the Contractor and the personnel shall be removed from the Contract within ten (10) days of the notice and replaced with personnel satisfactory to the Lottery. If any employee of the Contractor is unable to perform for any reason, the Contractor shall immediately provide substitute personnel acceptable to the Lottery.

1.9.8 Evaluation of Contractor

In accordance with procedures established by the Lottery, the Contractor's performance under this Contract will be evaluated. The evaluation will be prepared by the Lottery's Contract Manager and forwarded to the Contract Services Section within thirty (30) days after termination or expiration of this Contract. The evaluation shall include quality and adequacy of performance, and whether performance is timely.

1.9.9 Dispute Resolution

The parties shall mutually attempt to negotiate an amicable resolution of any dispute in accordance with this subsection.

- A. Notification. The contract manager of the complaining party shall notify the Contract Manager of the other party in writing specifying the issue for resolution in reasonable detail (the " Notice").
- B. Response. The non-complaining party shall respond to the Notice in writing within five (5) State working days. The parties agree to abide by the following procedure:
 - 1. If the non-complaining party acknowledges responsibility, the response shall specify the steps that will be taken to resolve the issue and the reasonable time schedule for such resolution, taking into consideration the Lottery's business needs. The parties agree to consider all good faith and reasonable solutions and to exercise all reasonable efforts to resolve the issue.
 - 2. If the non-complaining party does not acknowledge responsibility in the response, the parties' contract managers will meet in person within two (2) State working days after such non-acknowledgement with the sole task of determining responsibility, and what steps the responsible party should take to resolve the issue. The contract managers shall meet as often as reasonably necessary and shall gather and furnish to the other party all relevant information reasonably necessary to resolve the issue.
- C. Escalation. If the parties are (1) unable within five (5) State working days from receipt of the non-complaining party's response to the Notice, to resolve the dispute, or (2) the responsible party has not taken steps to resolve the dispute according to the agreed upon time schedule, then the Lottery Director's designee and the Contractor's designee shall meet as soon as practicable, but at least within five (5) State working days to discuss and attempt to mutually satisfactorily resolve the dispute. Each party agrees not to initiate court proceedings until twenty (20) State working days after either party concludes in good faith and notifies the other in writing that amicable resolution through continued negotiation appears unlikely.

1.9.10 Notice of Delay

Whenever the Contractor has knowledge that any actual or potential situation, including but not limited to labor disputes, will delay or threatens to delay timely performance of the work under this Contract, the Contractor shall immediately give written notice thereof and provide any relevant information to the Lottery's Contract Manager.

1.10 Expiration or Termination of Contract

Expiration or termination of the Contract shall be accomplished in accordance with this section.

1.10.1 Expiration of the Contract

Absent early termination of the Contract pursuant to the terms of this subsection, the Contract shall expire at the end of the last Contract term as provided for in the section entitled Term of Contract and Option to Extend.

1.10.2 Termination for Default

A. The Lottery may, by written notice of default to Contractor, terminate the Contract in whole or in part if:

1. Contractor fails to deliver material Products within the time specified in the Contract or any extension;
2. Contractor fails to make progress, so as to endanger performance of the Contract;
3. Contractor fails to perform any material provision of this Contract;
4. A receiver, conservator, liquidator, or trustee of Contractor, or of any of its property is appointed by order or decree of any court or agency or supervisory authority having jurisdiction; or an order for relief is entered against Contractor, under the Federal Bankruptcy Code; or Contractor is adjudicated bankrupt or insolvent; or any portion of the property of Contractor is sequestered by court order and such order remains in effect for more than thirty (30) calendar days after such party obtains knowledge thereof; or a petition is filed against Contractor under any state, reorganization, arrangement, insolvency, readjustment of debt, dissolution, liquidation, or receivership law of any jurisdiction, whether now or hereafter in effect, and such petition is not dismissed within thirty (30) calendar days;
5. Contractor files a case under the Federal Bankruptcy Code or is seeking relief under any provision of any bankruptcy, reorganization, arrangement, insolvency, readjustment of debt, dissolution, receivership or liquidation law of any jurisdiction, whether now or hereafter in effect, or consents to the filing of any case or petition against it under any such law;
6. Contractor makes an assignment for the benefit of its creditors, or admits in writing its inability to pay its debts generally as they become due, or consents to the appointment of a receiver, trustee, or liquidator of Contractor or of all or any part of its property; or judgment for the payment

of money in excess of \$50,000.00 (which is not covered by insurance) is rendered by any court or governmental body against Contractor, and Contractor does not discharge the same or provide for its discharge in accordance with its terms, or procure a stay of execution thereof within thirty (30) calendar days from the date of entry thereof, and within said 30-day period or such longer period during which execution of such judgment shall have been stayed, appeal there from and cause the execution thereof to be stayed during such appeal while providing such reserves therefore as may be required under generally accepted accounting principles; or a writ or warrant of attachment or any similar process shall be issued by any court against all or any material portion of the property of Contractor, and such writ or warrant of attachment or any similar process is not released or bonded within thirty (30) calendar days after its entry;

7. A court of competent jurisdiction finds that Contractor has failed to adhere to any law, ordinance, rule, regulation or order that indicates a lack of business integrity or business honesty that seriously and directly affects the present responsibility of Contractor of performing the Contract for the Lottery;
8. Contractor fails to communicate on material matters with the Lottery as required by the Contract;
9. Contractor fails to comply with the sections entitled Personnel and Key Personnel;
10. Contractor breaches the Contract's standard of confidentiality with respect to this Contract or the Product provided thereunder;
11. Contractor engages in conduct that results in a material negative public impression including, but not limited to, creating the appearance of impropriety with respect to the Lottery, the Product, the Contractor, or the State of California;
12. Contractor has knowingly or acting with a reckless disregard of the truth furnished any material statement, representation, warranty or certification to the Lottery which is false, deceptive, or incomplete.

The Lottery's right to terminate the Contract under subsection A, may be exercised, in the event the Contractor's breach is curable, only if Contractor does not cure such breach within 10 State working days (or more if authorized in writing by the Lottery's Contract Manager) after receipt of the notice from the Lottery specifying the breach.

If the Lottery terminates the Contract in whole or in part, it may acquire, under the terms and in the manner the Lottery considers appropriate, a Product similar to

those terminated, and Contractor will be liable to the Lottery for any reasonable excess costs for that Product. However, Contractor shall continue the work not terminated.

- B. If the Contract is terminated for default, the Lottery may require Contractor to transfer title and deliver to the Lottery, as directed by the Lottery, any (1) completed Product; (2) partially completed Product, materials, and parts; and (3) license rights to any intellectual property including but not limited to software, designs, plans, and technical data that the Contractor has produced, acquired, or utilized for the terminated portion of the Contract. Upon direction of the Lottery, Contractor shall also protect and preserve property in its possession in which the Lottery has an interest.
1. The Lottery shall pay the Contract price for completed Product delivered and accepted. Contractor and the Lottery shall agree on the amount of payment for Product, materials, and parts and license rights to any intellectual property delivered and accepted by the Lottery and for the protection and preservation of the property. Failure to agree will be a dispute under the section entitled Dispute Resolution. The Lottery may withhold from these amounts any sum the Lottery determines to be necessary to protect the Lottery against loss because of outstanding liens or claims of lien holders.
 2. If, after termination, it is determined that Contractor was not in default, or that the default was excusable, the rights and obligations of the parties shall be the same as if the termination had been issued for the convenience of the Lottery. In that case, Contractor shall be entitled to compensation upon submission of invoices and proper proof of claim for that portion of the Product, which were satisfactorily rendered or provided prior to the effective date of termination and other reasonable charges Contractor can demonstrate to the satisfaction of the Lottery have resulted from the termination.
- C. The rights and remedies of the Lottery in this subsection are in addition to any other rights and remedies provided by law or under the Contract.

1.10.3 Termination for Convenience

The Lottery retains the option to immediately terminate the Contract for the Lottery's convenience upon written notice to the Contractor. Upon receipt of notice of termination, Contractor shall cease performance and shall mitigate damages. Contractor shall be entitled to compensation upon submission of invoices and proper proof of claim for that portion of the Contract, which was satisfactorily rendered or provided prior to the effective date of termination. The Lottery may also compensate Contractor for expenses incurred as a result of binding commitments made in connection with Contractor's performance of the Contract. Contractor shall submit

proof of such expenses incurred. However, compensation for such expenses lies within the sole discretion of the Lottery.

In the event of termination for convenience, the Contractor shall furnish copies of all materials related to performance hereunder at the time of termination.

1.10.4 Changes

- A. The Lottery Contract Manager may at any time, by written order, make changes to the Product, including but not limited to, the delivery of the Product, not otherwise specified in this Contract that are within the general scope of the Contract.
- B. If any such change causes an increase or decrease in the cost of, or the time required for, performance of any part of the work under the Contract, whether or not changed by the order, the Lottery shall make an equitable adjustment in the Contract price, the delivery schedule, or both, and shall modify the Contract. No equitable adjustment shall be owed to Contractor for changes that are customarily provided by lottery contractors as part of lottery contracts.
- C. Contractor must assert its right to an adjustment under this clause within 30 calendar days from the date of receipt of the written order. However, if the Lottery decides that the facts justify it, the Lottery may receive and act upon a proposal submitted before final payment of the Contract.
- D. If Contractor's proposal includes the cost of property made obsolete or excess by the change, the Lottery shall have the right to prescribe the manner of the disposition of the property.
- E. Failure to agree to any adjustment shall be a dispute under the Disputes clause. However, nothing in this clause shall excuse Contractor from proceeding with the

1.11 Miscellaneous Provisions

1.11.1 Full Force and Effect

This Contract is of no force and effect until signed by all parties and all approvals are secured ("Execution"). Any commencement of performance prior to Contract execution shall be done at the Contractor's own risk.

1.11.2 Amendment

The Contract may be amended only by mutual written consent of the parties signed by each party's signatory to the Contract or his or her successor. No alteration or

variation of the terms of this Contract shall be valid or binding unless so made, and no prior oral understanding or agreement not incorporated herein shall be binding on any of the parties hereto.

1.11.3 Force Majeure

Neither Contractor nor the Lottery shall be liable for any delay in or failure of performance under the Contract due to a Force Majeure occurrence provided that the Contractor shall use reasonably diligent efforts to avoid or otherwise minimize the impact of an event of Force Majeure on the Contractor's performance. Any such delay in or failure of performance shall not constitute default or give rise to any liability for damages. The existence of the cause(s) of such delay or failure shall extend the period for performance to such extent as determined by the Lottery's Contract Manager or designee to be necessary to enable complete performance by Contractor if reasonable diligence is exercised after the cause of delay or failure has been removed.

Force Majeure occurrence is an event or effect that cannot be reasonably anticipated or controlled. As herein used, "Force Majeure" means an act of God or public enemy, earthquake, fire, flood, explosion, epidemic, quarantine restriction, strikes, freight embargoes or closure of all major access roads to geographic area, action of the elements, governmental interference, rationing or any other cause which is beyond the control of the party affected and which, by the exercise of reasonable diligence, a party is unable to control. Interruptions, delays, or other failures to perform as required under the Contract because of date related changes, shall not be considered a Force Majeure event.

1.11.4 Waiver of Provisions

No term or provision of this Contract shall be deemed waived and no breach excused, unless such waiver or consent to the breach shall be in writing and signed by an individual authorized on behalf of the party against whom such waiver or consent is sought to be enforced. No consent by either party to or waiver of a breach by the other, whether express or implied, shall constitute a consent to, waiver of, or excuse for any other breach or subsequent breach except as may be expressly provided in the written waiver or consent.

1.11.5 Order of Precedence

The terms and conditions of the Contract supersede any other oral or prior written communication concerning the nature of this Contract. All other oral or prior written communications concerning the nature of the Contract shall be of no effect and shall not be used as evidence of either party's intent.

The entire Contract consists of the following three (3) documents.

- (1) Terms and Conditions set forth in the section entitled Contract Terms and Conditions.
- (2) The Lottery's Invitation for Bid (IFB) #9294 and any amendments thereto.
- (3) Contractor's proposal in response to IFB #9294 and any clarifications/ amendments submitted in response to requests by the Lottery.

If there are any inconsistencies or ambiguities in the Contract, the Contract shall be interpreted by the documents in the order of precedence referenced above.

1.11.6 Notices in General

Any notice, request, demand, consent, waiver, or other item required or permitted under this Contract or applicable law must be in writing and shall be deemed duly given or made only (a) if personally served upon the party intended to receive it, in which case it is effective when delivered; or (b) is sent by certified mail, return receipt requested, postage prepaid, addressed to the party at its address set forth below, in which case it is effective on receipt by any person residing at such address; or (c) is sent by telefax (but only if a "FAX" number is set forth below) with a copy sent on the same date by first class mail, postage prepaid, addressed to the party at its address set forth below, in which case it is effective as of the date of mailing.

	<u>LOTTERY</u>	<u>CONTRACTOR</u>
Name:	California Lottery	_____
Address:	600 North 10 th Street	_____
	Sacramento, CA 95814-0393	_____
Phone #:	(916) _____	_____
FAX #:	(916) _____	_____
Attn.:	_____	_____

A party may change its address for purposes of this Contract only by giving written notice to the other in the manner set forth herein.

1.11.7 Invalidity in Whole or in Part/Severability

If any provision of this Contract is held illegal, invalid, or unenforceable under any applicable rule or law, such invalidity shall not affect other provisions which can be given effect without the invalid provisions, and to this end, such provision(s) is declared to be severable.

1.11.8 Execution of Counterparts

The parties shall deem the execution of a copy of the Contract hereto as having the same force and effect as though the parties so executing said copy had executed the original.

1.11.9 Sections and Subsection Headings

The Section and subsection headings contained herein are for convenience in reference and are not intended to define scope of any provision of the Contract.

1.11.10 Assignment

Contractor shall not assign any performance of or payment for the Contract or any portion thereof without the prior written consent of the Lottery. Any attempt by Contractor to make such assignment without the prior written consent of the Lottery shall be void and shall constitute a material breach of the Contract.

1.11.11 Subcontracting _

Contractor may enter into subcontract(s) under the Contract if the subcontractor agrees to be bound to the Contractor in the same manner as Contractor is bound to the Lottery. Contractor shall notify the Lottery of its intent to enter into each subcontract at least thirty (30) calendar days prior to its final execution, the work to be subcontracted, and the termination of each subcontract. The Lottery may approve or disapprove a subcontractor at any time.

Nothing contained in the Contract shall create any contractual relation, whether third party or otherwise, between the Lottery and any subcontractors. Contractor agrees to be as fully responsible to the Lottery for the acts and omissions of its subcontractors and of persons either directly or indirectly employed by any of them as it is for the acts and omissions of persons directly employed by Contractor.

Contractor's obligation to pay its subcontractors is an independent obligation from the Lottery's obligation to make payment to Contractor. As a result, the Lottery shall have no obligation to pay or to secure payment of any moneys to any subcontractors.

1.11.12 Independent Contractor

Contractor shall be an independent Contractor of Lottery in the performance of the Contract. Contractor shall have the sole, absolute and exclusive control of the manner and means of its performance under the terms of this Contract except as expressly set forth herein.

1.11.13 Representation of Ownership

Contractor represents and warrants that everything created, produced, to be used or made available to Lottery at any time pursuant to this Contract either (a) is owned solely and exclusively by Contractor or (b) has been licensed in writing to Contractor for the benefit and use of Lottery. This representation by Contractor continues throughout the Contract term and any extension. Lottery relies upon this

representation and warranty, which is a material term of this Contract. Contractor shall deliver to Lottery, immediately upon request, written documentation (a) evidencing Contractor's exclusive ownership rights or (b) its licensed rights as set forth above.

1.11.14 Assignment of Right to Payment

Without the advance written consent of the Lottery, the right to receive payment under this Contract is not assignable by Contractor either in whole or in part. Any attempt to assign the right to payment without the advance written consent of the Lottery is void.

1.11.15 Media Relations

Contractor shall not in any way contact the media in connection with this Contract without prior written approval of the Lottery's Contract Manager.

1.11.16 Waiver

To the extent any of Contractor's rights in the Lottery Materials are not subject to assignment or transfer hereunder, including without limitation any moral rights (including any rights of attribution and of integrity), Contractor hereby irrevocably and unconditionally waives all enforcement of such rights, except for Contractor's rights in the Contractor Materials, and agrees not to challenge Lottery's rights in the Lottery Materials.

1.11.17 Defense of Bid Protest

Contractor, at its own expense shall fully participate in the defense of any bid protest filed by a third party.

1.11.18 Maintenance of Records

The Contractor agrees to maintain any books, records, documents, and other evidence pertaining to costs and/or performance under this Contract, including subcontracts, and hold them available for audit and inspection by the State or its agents for a period of four (4) years from the date this Contract or any extension thereto terminates or expires on its own terms.

Exhibit C

INCOMPATIBLE ACTIVITIES AND ETHICAL CONDUCT STANDARDS

GENERAL DISCUSSION

To maintain public confidence in the Lottery and the games, it is essential that employees conduct themselves and the business of the Lottery with honesty, integrity and impartiality. Employees must take care to avoid conflicts of interest or even the appearance of conflicts of interest by observing the rules of ethical conduct contained herein. Failure to conform to the standards set forth below may result in such disciplinary measures as the situation may warrant, including informal or formal reprimand, removal from office or termination of employment. This includes all civil service and exempt employees covered by the Lottery Act and includes contract employees.

In addition, due to the particularly sensitive nature of the Lottery and the intense public scrutiny, which the Lottery receives, and under the authority provided to the Lottery Director by the Lottery Act, some special procedures have been established for Lottery employees.

DEFINITIONS

1. Employee - Includes civil service, temporary, emergency, limited term, seasonal and exempt employees covered by the Lottery Act. Includes those persons employed under the terms of a Personal Services Contract, who are subject to all of the terms of that contract and the contract employment approval process.
2. Person - Includes individuals, firms, corporations, partnerships, associations, other governmental bodies or their agents and representatives.
3. Memorandum of Understanding Provisions - Written agreement between state and a labor organization usually for a definite term, defining conditions of employment.

POLICY GUIDELINES

1. It is the policy of the Lottery to inform its employees of activities, which are incompatible with their employment and standards for their ethical conduct as Lottery employees.
2. Managers and supervisors are responsible for assuring that their subordinates are informed of these policies and standards. New employees are to be made aware that in accepting employment they consent to these policies and standards.
3. Employee questions concerning whether a contemplated activity is prohibited or in compliance with this statement should be directed on a confidential basis to employee's immediate supervisor or the Personnel Officer.

4. It is the policy of the Lottery that individuals convicted of any felony, any gambling-related offense (felony or misdemeanor), or any misdemeanor involving moral turpitude, dishonesty or integrity shall not be employed, appointed, or retained by the Lottery. Exceptions to this policy pertaining to misdemeanor convictions (not related to gambling offenses) may be granted by the Lottery Director or Chief Deputy Director based on the circumstances, on a case by case basis.
5. Employees may be subject to disciplinary action for violations of the policies and standards contained in the Incompatible Activities Policy Statement (Government Code Sections 19570-19588). An employee may appeal a determination of incompatibility through the third level of review, pursuant to the employee grievance procedure.
6. Employees may request exceptions to the Incompatible Activities Policy Statement where Memorandum of Understanding provisions apply. A request for exception should be submitted, in writing, to the employee's immediate supervisor.
7. This statement and subsequent revisions will be implemented by notifying employees of the proposed statement and subsequent changes, in writing, for a period of at least 30 days prior to implementation.

STANDARDS OF CONDUCT

Pursuant to the provisions of Government Code Section 19990, and the approval of the Department of Personnel Administration, the Lottery has determined that the following activities are inconsistent, incompatible or in conflict with the duties, functions or responsibilities of its employees.

1. No employee shall use the prestige or influence of the State or the Lottery for the employee's private gain or advantage, or the private gain or advantage of another.
2. No employee shall use State time, facilities, equipment or supplies for private gain or advantage.
3. No employee shall use confidential information available by virtue of State employment for private gain or advantage or provide confidential information to persons to whom issuance of such information has not been authorized.
4. No employee shall receive or accept money or any other consideration from anyone other than the State for the performance of his/her duties as a Lottery employee or contract employee. This provision does not preclude accepting a meal in return for representing the Lottery at a conference, event, or sponsorship, or as a guest speaker.
5. No employee shall participate in any outside activity knowing that the activity may later be subject, directly or indirectly, to the control, inspection, review, audit or enforcement by the employee in the course of his/her duties at the Lottery.

6. Except as provided below, no employee shall directly or indirectly solicit, receive or pass on to other persons any gift, money, service, gratuity, favor, meal, entertainment, loan or any other thing of value with a fair market value of \$25 or more, regardless of whether the employee reciprocates with a like gift, from anyone who is doing or seeking to do business of any kind with the Lottery, or whose activities are regulated or controlled by the Lottery if the gift, money, service, gratuity, favor, meal, entertainment, loan or any other thing of value may appear to be solicited, received or passed on to another wholly or partially because of the employee's employment with the Lottery.

Exceptions to Item 6:

1. Employees may accept items having a value of more than \$25 with the approval of the Lottery Director.
2. When attending a conference, convention, seminar or training meeting (conferences), employees may accept the following without regard to the value:
 - a. Promotional items which are generally available to all attendees.
 - b. Food, beverages and entertainment provided in hospitality suites which are generally open to all attendees.
 - c. Meals provided by conference hosts, Bidders, or prospective Bidders or their representatives which are generally available to attendees. For example, the meal might be considered generally available when those invited to the meal represent a number of different entities (lotteries, governmental organizations, companies, etc.).

The purpose of allowing exceptions for conference attendance is to allow open exchange of information. If an employee perceives that an invitation is extended with the specific intent to influence him/her, the employee should decline. Employees are expected to maintain honesty and integrity when deciding to accept or decline food, beverages and entertainment as part of a conference setting. (Note: When a meal is provided as part of a conference, the employee may not claim that meal as a subsistence expense.)

3. No employee or contract employee shall engage in outside employment as defined below without advising his/her manager/supervisor of such employment before starting outside employment. General prohibitions on outside employment to be enforced by the supervisor include:
 - a. Engaging in any employment outside State service, or outside the scope of the contract with the Lottery, compensated or not, which causes either physical or mental fatigue that results in less efficient performance of the employee's or contract employee's State or contract duties.

- b. Accepting money, gifts, compensation or consideration in any form for service as an official or in any policy-making capacity in a nonprofit or volunteer organization which is involved in any way with Lottery operations within the employee's or contract employee's jurisdiction.
 - c. Accepting money, gifts, compensation or consideration in any form from a person other than the State for performing a duty which the employee, contract employee, or the Lottery would be expected to perform in the course of State or contract business.
 - d. Performing an act in other than the capacity as a State employee or contract employee knowing that such act may later be subject, directly or indirectly, to the employee's or contract employee's control, inspection, review, audit or enforcement.
 - e. Engaging in any non-State business which is otherwise clearly inconsistent, incompatible, in conflict with or inimical to his or her duties as a State employee or a contract employee.
4. Each employee who is in a position to influence Lottery decisions about a supplier of goods or services to the Lottery and who has a personal relationship with the supplier, shall immediately notify his/her supervisor of the name of the supplier and the relationship. "Personal relationship" means spouse, child, parent, sibling, household member, "significant other", business associate or personal friend. A "personal friend" is defined as any person with whom the employee is acquainted who can influence the employee to the extent of creating a conflict-of-interest situation or giving the appearance that a conflict-of-interest situation exists.
5. Subject to any other laws, rules, or regulations as pertain hereto, an employee shall devote his/her full time, attention, and efforts to his/her Lottery employment during his/her hours of duty as a Lottery employee.

POLITICAL ACTIVITIES

The law provides guidelines for employees to follow with regard to political activities. Essentially, Government Code Sections 3201-3209 provide:

- 1. Except as otherwise provided under Government Code Sections 3201-3209, no restriction shall be placed on the political activities of an employee.
- 2. No employee may knowingly solicit or receive any kind of political contribution from State employees or persons on employment lists. However, this limitation does not prohibit an employee from communicating through the mail or by other means requests for political contributions to a significant segment of the public which may include State employees.

3. No employee may use any official authority to influence or to coerce the vote or political action of any State employee or persons on an employment list. This limitation applies to urging or discouraging an individual's action.
4. An employee may solicit or receive political contributions to promote or defeat a ballot measure which affects rates of payment, hours of work, retirement, civil service or other working conditions of State employees. However, such activity is prohibited during working hours.

OTHER CONSIDERATIONS

1. The Lottery Act requires that the Director shall act, in all decisions, to promote and ensure integrity, security, honesty and fairness of the operation and administration of the Lottery. Under this authority, the Lottery Director, or designee, may evaluate the information on outside employment or current or prior relationships to determine whether there is or may be a conflict with official duties and the steps that are required to eliminate the conflict.
2. Employees are advised that the Lottery Act provides that: "A ticket or share shall not be purchased by and a prize shall not be paid to a member of the commission, any officer or employee of the commission, any officer or employee of the Controller who is designated in writing by the Controller as having possible access to confidential lottery information, programs, or systems, or any spouse, child, brother, sister, or parent of that person who resides within the same household of the person." This provision of the Act does not apply to "in-law" or "step" relationships (e.g., stepparent, stepchild, mother-in-law, etc.). It does apply to legal adoptive relationships.
3. This statement and the specific activities set forth herein shall not be construed as the sole provisions of law or administrative rules that must be observed by the employees of the Lottery. The Lottery Director or the Commission may specify additional prohibited activities generally or for designated individuals by an order directed to the individual or persons to whom it applies.

EXCEPTIONS TO POLICY

Employees may request exceptions to this Incompatible Activity Policy Statement where Memorandum of Understanding provisions apply. A request for exception should be submitted, in writing, to the employee's immediate supervisor.

APPEAL PROCESS

1. A determination by the employee's supervisor that an activity is in conflict with the employee's duties or responsibilities may be appealed through the third level of the grievance procedure as provided below. The decision of the Lottery Director shall be final.

2. An employee may appeal a determination of incompatibility under this policy through the employee grievance procedure. However, in all cases the final level of review in the process shall be the Lottery Director or his/her designee.

QUESTIONS/MAINTENANCE

Questions regarding this policy should be directed to the Personnel Office. The Personnel Office is responsible for maintaining this policy.

REFERENCE

Government Code, Section 19990

Government Code, Sections 3201-3209

Incompatible Activities Policy Statement (Government Codes 19570-19588)

Lottery Act

Exhibit D

CALIFORNIA LOTTERY ACT Government Code, Title 2, Division 1, Chapter 12.5

Section 8880.57. Disclosures

In order to allow an evaluation of the competence, integrity, and character of potential Lottery Contractors for the California Lottery, any person, corporation, trust, association, partnership or joint venture which submits a bid, proposal, or offer as part of procurement for a contract for any goods or services for the California Lottery, other than materials, supplies, services, and equipment which are common to the ordinary operations of state agencies, shall comply with each of the following:

- (a) At the time of the submission of the bid, proposal, or offer to the Lottery, disclose the Bidder's name and address, and as applicable, the name and address of the following:
 - (1) If the Bidder is a corporation, the officers, directors, and each owner, directly or indirectly, of any equity security or other ownership interest in the corporation. However, in the case of owners of publicly held equity securities of a publicly traded corporation, only the names and addresses of those known to the corporation to beneficially own 5 percent or more of the publicly held securities need be disclosed.
 - (2) If the Bidder is a trust, the trustee and all persons entitled to receive income or benefit from the trust.
 - (3) If the Bidder is an association, the members, officers, and directors.
 - (4) If the Bidder is a subsidiary, the officers, directors, and stockholders of the parent company thereof. However, in the case of owners of publicly held equity securities of a publicly traded corporation, only the names and addresses of those known to the corporation to beneficially own 5 percent or more of the publicly held securities need be disclosed.
 - (5) If the Bidder is a partnership or joint venture, all of the general partners, limited partners, or joint venturers.
 - (6) If the parent company, general partner, limited partner, or joint venturer of any Bidder is itself a corporation, trust, association, subsidiary, partnership, or joint venture, then the disclosure of such information as necessary to determine ultimate ownership. However, in the case of owners of publicly held equity securities of a publicly traded corporation, only the names and addresses of those known to the corporation to beneficially own 5 percent or more of the publicly held securities need be disclosed.

- (7) If the Bidder proposes to subcontract any substantial portion of the work to be performed to a subcontractor, then all of the information required in this section shall be disclosed for the subcontractor as if it were itself a Bidder.
- (b) After receipt of a bid, proposal, or offer, but prior to the award of a contract, the Commission may require a potential Lottery Contractor to provide any or all of the following information:
- (1) A disclosure of all the states and jurisdictions in which the Bidder does business, and the nature of that business for each state or jurisdiction.
 - (2) A disclosure of all the states and jurisdictions in which the Bidder has contracts to supply gaming goods or services, including but not limited to lottery goods and services, and the nature of the goods or services involved for each state or jurisdiction.
 - (3) A disclosure of all the states and jurisdictions in which the Bidder has applied for, has sought renewal of, has received, has been denied, has pending, or has had revoked a gaming license of any kind, and the disposition in each state or jurisdiction. If any gaming license has not been renewed or any gaming license application has been either denied or has remained pending for more than six months, all of the facts and circumstances underlying this failure to receive a gaming license shall be disclosed.
 - (4) A disclosure of the details of any conviction or judgment of a state or federal court against the Bidder of any gambling-related offense, or criminal offense other than traffic violations.
 - (5) A disclosure of the details of any bankruptcy, insolvency, or reorganization, or any judgment or pending litigation involving fraud or deceit against the Bidder.
 - (6) A disclosure for each Bidder who is a natural person of his or her employment, residence, educational, and military history since the age of 18 years.
 - (7) A disclosure consolidating all reportable information on all reportable contributions by the Bidder to any local, state, or federal political candidate or political committee in this state for the past five years that is reportable under any existing state or federal law.
 - (8) A disclosure of the identity of any entity with which the Bidder has a joint venture or other contractual arrangement to supply any state or jurisdiction with gaming goods or services, including but not limited to lottery goods or services; including a disclosure with regard to the entity of all of the information requested under paragraphs (1) to (8), inclusive.

- (9) In the instance of a procurement for the printing of lottery tickets, for goods or services involving the receiving or recording of number selections, or for goods or services involving the determination of winners, an additional disclosure consisting of the individual federal and state income tax returns for the past three years and a current individual financial statement for each Bidder who is a natural person. The disclosures provided in this paragraph shall be considered confidential and shall be transmitted directly to the Deputy Director for Security and the Attorney General for their review.
- (10) Such additional disclosures and information as may be appropriate for the procurement involved as determined by the Commission.
- (c) With respect to the persons or entities described in paragraphs (1) to (7), inclusive, of subdivision (a), the Commission may request the disclosure of any information required in subdivision (b), which shall be relevant to the award of any contract.
- (d) No contract with any Bidder who has not complied with the disclosure requirements described in this section shall be entered into or be enforceable. Any contract with any Lottery Contractor who does not comply with these requirements for maintaining the currency of the disclosures during the term of the contract as may be specified in the contract may be terminated by the Commission. In addition, the Commission may deny or cancel a contract with a Lottery Contractor or any of the persons or entities included in paragraphs (1) to (7), inclusive, of subdivision (a) if any of the following apply:
 - (1) False statements have been made in any information which is required under this section.
 - (2) Any of the persons or entities have been convicted of a crime punishable as a felony.
 - (3) Any of the persons or entities have been convicted of an offense involving dishonesty or any gambling-related offense.
- (e) This section shall be construed broadly and liberally to achieve the end of full disclosure of all information necessary to allow for a full and complete evaluation of the competence, integrity, and character of potential suppliers of the California Lottery Commission.

ATTACHMENT 1

PRICE SHEET

This Price Sheet is submitted in response to an Invitation for Bid (IFB) issued by the Lottery for conducting on-site inventories of specified Scratchers® game products (tickets, packs, boxes). The cost provided should represent an hourly rate for all services outlined in Exhibit A, Scope of Services.

Hourly Rate for Required Services – Rate shall include all costs and applicable taxes.

\$ _____ per hour

I, _____, certify that I am authorized to sign this price sheet and to warrant that prices set forth are accurate and unconditional. I further certify that these prices constitute an irrevocable offer which the Lottery may, at its option, accept or reject at any time within 180 days from the date response to this IFB was due.

NOTE: Bidder shall be cognizant that all prices contained in this bid shall be fixed for the two (2) year contract, plus the option to extend up to one (1) year.

Signature: _____

Date: _____

Title: _____

Company Name: _____

Attachment 2
TRANSMITTAL FORM

Name of Company: _____

Contact Person: _____

Address: _____

Telephone: _____ FAX Number: _____

e-mail Address: _____

Federal Identification or
Social Security # _____
(whichever is applicable)

Date Business
Established in California _____

List person(s) legally authorized to contractually bind the bidder:

1. _____
Name Title

Address

Telephone Fax Number
2. _____
Name Title

Address

Telephone Fax Number

(If more space is needed, attach page.)

By signing this Attachment 2, the bidder is certifying to the following statements:

1. Bidder is a legal business entity and agrees, if awarded the contract, to be registered with the California Office of the Secretary of State and remain in good standing and qualified to do business in California throughout the term of the Contract. [Call (916) 653-6814 for information.]

2. Has an office in California;
3. Bidder has made no attempt to induce any other person or firm to submit or not to submit a bid for the purpose of restricting competition.
4. The costs in the bid response have been developed and calculated independently, without consultation, communication or agreement on any matter relating to such costs with any other vendor or competitor for the purpose of restricting competition.
5. Bidder agrees to comply with all terms and conditions in Exhibit B, Contract Terms and Conditions.
6. Bidder agrees to provide required insurance as specified in Exhibit B, Section 1.6.
7. Bidder acknowledges that initial payment(s) may be delayed approximately forty-five (45) days and has sufficient resources to meet its obligations during this period.
8. Bidder agrees to the following "Statement of Compliance":

I certify under the penalty of perjury under the laws of the State of California that my company has, unless exempted, complied with the nondiscrimination program requirements of Government Code section 12990 (a-f) and Title 2, California Code of Regulations, section 8103.
9. Bidder agrees to meet the 3% Disabled Veteran Business Enterprise Participation or make a Good Faith Effort to achieve such participation.

Signature of Authorized Representative

Printed Name

Date



ATTACHMENT 3

IFB #9294
SCRATCHERS® INVENTORY SERVICES

MANDATORY

**DISABLED VETERAN BUSINESS
ENTERPRISE PARTICIPATION**

3%

**(Based on approximately \$135,000 over the Contract
period for inventory services)**

OR

GOOD FAITH EFFORT



DISABLED VETERAN BUSINESS ENTERPRISE (DVBE) PARTICIPATION 3%

INSTRUCTIONS/FORMS

Based upon the nature of the goods/services to be utilized in this solicitation, Bidders will be required to meet a mandatory minimum of 3% participation of DVBEs or make and document a Good Faith Effort. Completion of the following documentation is mandatory. (All information must be provided.)

A narrative format can be utilized for the Good Faith Effort steps. If any percentage of participation is achieved through these steps, Bidders should complete the forms stated below.

General Information

Bidder's Name _____

Contact Person _____ Telephone _____ Fax _____

Address _____

City/State/Zip _____

DVBE Subcontractors to be Utilized Form

Complete and sign this form for all DVBE subcontractors to be utilized. Please duplicate this page for additional companies.

Declaration of Compliance Form

Complete and sign this form certifying all the information is true and correct. This form must be signed by all Bidders (non-DVBEs and DVBEs). This form must be signed by the person legally authorized to contractually bind the Bidder.

DVBE Certification Form

All DVBEs must be currently certified by the Department of General Services, Office of Small Business Certification and Resources (OSBCR). A copy of that certification must be submitted with this bid.



DISABLED VETERAN BUSINESS ENTERPRISE (DVBE) SUBCONTRACTORS TO BE UTILIZED

*Complete and sign this form for all DVBE subcontractors to be utilized.
Please duplicate this page for additional companies.*

Name of DVBE _____
Contact Person _____
Address _____
City/State/Zip _____
Telephone _____
Fax _____
Goods/Services to be provided _____

Dollars to DVBE \$ _____ Percentage of Contract _____ %

Certifying Agency _____ Certification # _____
(include copy of certification document)

Type of Business: Sole Owner _____ Corporation _____ Joint Venture _____
Partnership _____ Other _____

By signing below, the Bidder indicates its intent to utilize the DVBE(s) identified above as part of the contract associated with this solicitation, as applicable. The Bidder also certifies that all information contained herein is true and correct.

Bidder's Authorized Signature

Date

Printed Name

Company Name

By signing below, the DVBE certifies it has been contacted, and has expressed interest in participating in the contract in the area of work identified. This form must be signed by the person legally authorized to contractually bind the Bidder.

DVBE's Authorized Signature

Date

Printed Name

Company Name



DECLARATION OF COMPLIANCE FOR DISABLED VETERAN BUSINESS ENTERPRISE (DVBE) PARTICIPATION

Complete and sign this form certifying all the information is true and correct. This form must be signed by the person legally authorized to contractually bind the Bidder.

Bidder's Name _____

Contact Person _____ Telephone _____

Address _____ Fax _____

City/State/Zip Code _____

Declaration

I declare under penalty of perjury that the information provided in this Attachment is true and correct. (Please check one)

_____ Our firm is a DVBE.

_____ Our firm is a Bidder who will provide for DVBEs subcontracting participation of 3%, under the contract resulting from this solicitation.

_____ Our firm completed the Good Faith Effort steps required and will subcontract ____% participation for this bid under the contract resulting from this solicitation.

_____ Our firm completed the Good Faith Effort steps required, however we were unable to provide DVBE participation.

Executed on _____
Month/Date/Year

In the city of _____ State of _____

Signature _____
Authorized Representative

Printed Name _____

Title _____

Telephone _____ Fax _____

Lottery 1175 (R08/02)



ATTACHMENT 4

IFB #9294 SCRATCHERS® INVENTORY SERVICES

(OPTIONAL)

SMALL AND MICROBUSINESS PARTICIPATION (SBP)

**(Based on approximately \$135,000 over the contract
period for inventory services)**

Small Business Preference
Nonsmall Business Preference

SBP 15%



SMALL BUSINESS OR MICROBUSINESS SUBCONTRACTORS TO BE UTILIZED

Complete and sign this form for all small business and microbusiness subcontractors that you plan to utilize as part of your small business participation. Please duplicate this page for additional companies.

Name of Subcontractor _____ Contact Person _____

Address _____

City/State/Zip _____

Telephone _____ Fax _____

Goods/Services to be provided _____

Business Category ___ Small ___ Micro Dollars to Subcontractor \$ _____
Percentage of total contract _____ %

Certifying Agency _____ Certification # _____
(include copy of certification document)

Requesting Lottery Certification _____ Yes

By signing below, the Bidder indicates its intent to utilize the small business or microbusiness identified above as part of the contract associated with this solicitation, as applicable; and also certifies that all information contained herein is true and correct.

Bidder's Authorized Signature

Date

Printed Name

Company Name

By signing below, the small business or microbusiness certifies it has been contacted, and has expressed interest in participating in the contract in the area of work identified; and also certifies that all information contained herein is true and correct.

Subcontractor's Authorized Signature

Date

Printed Name

Company Name

Lottery 1177 (R08/02)



DECLARATION OF COMPLIANCE FOR SMALL BUSINESS AND MICROBUSINESS SUBCONTRACTOR PARTICIPATION

Complete and sign this form certifying all the information is true and correct. This form must be signed by the person legally authorized to contractually bind the Bidder.

Bidder's Name _____

Contact Person _____ Telephone _____

Address _____ Fax _____

City/State/Zip Code _____

Declaration

I declare under penalty of perjury that the information provided in this Attachment is true and correct. (Please check one)

_____ Our firm is a Small Business or Microbusiness Bidder

_____ Our firm is a Nonsmall Business Bidder providing for small business or microbusiness subcontracting participation of _____%

Executed on _____
Month/Date/Year

In the city of _____ State of _____

Signature _____
Authorized Representative

Printed Name _____

Title _____

Telephone _____ Fax _____

Lottery 1178 (R08/02)

Small Business Certification Form

Attachment 5

GUARANTY

IFB #9294, Scratchers® Inventory Services

This Guaranty is to be completed by the Bidder or parent company of Bidder. Check one (1) of the boxes (A or B) below. Bidder or parent company to sign the Guaranty as appropriate, and return this Guaranty with your bid package.

☐ A. In the event that the agency is not a subsidiary corporation, it will be deemed that the agency guarantees performance under any contract resulting from this IFB with the full force and credit of all its assets.

☐ B. If the agency is a subsidiary corporation, it shall have this Guaranty completed by the parent corporation to guaranty the full and prompt performance of all covenants, terms and conditions, and contracts resulting from this IFB for the term of the contract.

1. The parent company _____ (company name) has the financial ability to meaningfully support such guaranty;
2. The official signing of this Guaranty is authorized to bind the guarantor corporation;
3. Accepts unconditional responsibility for all performance and financial requirements and obligations of the contract;
4. For good and valuable consideration, receipt of which is hereby acknowledged, the Guarantor is making the guaranty;
5. The Guarantor stipulates that if the contract is ultimately awarded to the subsidiary, the Lottery will do so in reliance upon the guaranty;
6. The undersigned corporate officer warrants (1) that he or she has personally reviewed all pertinent corporate documents, including but not limited to articles of incorporation, bylaws and agreements between the parent and the subsidiary; and (2) that nothing in these documents in any way limits the capacity of the parent to enter into the contract or guaranty;
7. The Lottery need not take any action against the Bidder, any other guarantor, or any other person, firm, or corporation, or resort to any security held by it at any time before proceeding against the Guarantor and the Guarantor hereby waives any and all notices and demands which may be required to be given by any other statute or rule of law and agrees that its liability hereunder shall be in no way

affected, diminished, or released by any extension of time, forbearance, or waiver which may be granted the Bidder, its successor, or assignee, and that this guaranty shall extend to and include all future amendments, modifications, and extensions of the contract and all future supplemental and other agreements with respect to matters covered by the contract which the Lottery and Bidder may enter into, with or without notice to or knowledge of Guarantor but Guarantor shall have the benefit of any such extension, forbearance, waiver, amendment, modifications, or supplemental obligations of Guarantor hereunder shall be coextensive with but not in the excess of the obligations of its successor or assignee under the contract.

Guarantor agrees that the guaranty shall continue in full force and effect despite any change in the legal or corporate status of the subsidiary, including but not limited to its sale, reorganization, dissolution or bankruptcy.

I, _____, certify that I am authorized to sign and bind my company to this Guaranty.

Signature of Authorized Representative

Date

Company Name

ATTACHMENT 6
CONTRACTOR DISCLOSURES